

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KIRK ANTHONY BOTTS,)	
)	
Plaintiff,)	
)	
v.)	
)	
RYAN MCINTOSH, et al.,)	
)	
Defendants.)	

4:13CV3072

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. On August 15, 2013, the court conducted an initial review of Plaintiff's Complaint. (Filing No. [6](#).) The court determined that Plaintiff's allegations that Defendants had "kidnapped [his] progeny" did not nudge any claim across the line from conceivable to plausible. (*Id.* at CM/ECF p. 3.) On the court's own motion, the court gave Plaintiff 30 days in which to amend his Complaint to clearly state a claim upon which relief may be granted. (*Id.*)

Plaintiff filed an Amended Complaint on September 13, 2013. (Filing No. [7](#).) He seeks 100 million dollars in damages from various individuals and the State of Nebraska for their part in denying Plaintiff custody of his minor child. As this court determined in a previous case filed by Plaintiff, this court lacks jurisdiction to intervene in state law matters such as child custody. (*See Botts v. Sheriff of Lancaster County, et al.*, 8:11-cv-WKU-PRSE (D. Neb.) (dismissed without prejudice to reassertion in the proper forum on Sept. 27, 2011).) *See also Kahn v. Kahn*, [21 F.3d 859, 861 \(8th Cir. 1994\)](#) (The domestic relations exception . . . divests the federal courts of jurisdiction over any action for which the subject is divorce, allowance of alimony or child custody."). For this reason, and for the reasons set forth in the court's August 15, 2013, Memorandum and Order, this matter will be dismissed.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice to reassertion in the proper forum.
2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 7th day of November, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

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